

2024:PHHC:159647-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-3548-2020
Reserved on: 12.11.2024
Pronounced on: 29.11.2024

ANGURI DEVIPetitioner

Versus

UNION OF INDIA AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Navdeep Singh, Advocate with
Ms. Roopan Atwal, Advocate and
Ms. Srishti Sharma, Advocate
for the petitioner.

Ms. Anita Chawla, Senior Panel Counsel
for the respondent – UOI.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner herein prays for setting aside the relevant part of the order dated 05.12.2019 (Annexure P-1), as passed by the learned Armed Forces Tribunal concerned, whereby, the arrears of Liberalised Family Pension have been restricted to three years from the date of filing of the Original Application, by the petitioner.

Factual Background

2. The petitioner is a war widow of a soldier, who died in the

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martyrdom of her husband, she was granted Special Family Pension w.e.f. 13.12.1965. The Govt. of India issued policy/instructions dated 31.01.2001 granting enhanced death/disability benefits in operational deaths including deaths/disability owing to mine blasts, leading to the grant of '*Liberalized Family Pension*'.

3. The petitioner filed O.A. 3206 of 2017 before the learned Tribunal concerned, rather for grant of *Liberalized Family Pension* in terms of the policy (supra). The said O.A. was allowed vide order dated 05.12.2019. The operative part of the said order is extracted hereinafter.

*“In view of the above, applicant being the widow of the aforesaid deceased soldier is **entitled to the Liberalized Family Pension instead of Special Family Pension.***

Since the applicant has come to the court/Tribunal after a lapse of about 54 years of his discharge so the arrears are restricted to three years prior to the date of filing of this O.A., that is, 30.10.2017.”

4. Feeling aggrieved from the relevant part of the order (supra), whereby, the arrears of *Liberalized Family Pension* have been restricted to three years, the petitioner has filed thereagainst the instant writ petition.

Inferences of this Court.

5. Apparently, there is no wrangle with respect of the demise of the soldier arising from a mine blast while he was serving the Indian

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Army. Consequently, the demise of the soldier is deemed to arise from his rendering military service. Moreover, the said demise is quartered within the domain of clause (e) of the apposite Govt. Policy dated 31.01.2001. The relevant clause(s) whereof, are extracted hereinafter.

(d) during laying of clearance of mines including enemy mines as also mine sweeping operation.

(e) on account of accidental explosions of mines while laying operationally oriented mine-field or lifting or negotiating minefield laid by enemy or own forces on operational areas near international borders or the line of control”

6. Further, para 6 of the Liberalized Family Pension is extracted hereinafter.

“6.1 In case of death of Armed Forces Personnel under the circumstances mentioned in category “D” & “E” of para 4.1 above, the, eligible member of the family shall be entitled to Liberalized Family Pension equal to reckonable emoluments last drawn as defined in para 3.1 above, both for officers and PBOR, liberalized Family Pension at this rate shall be admissible to the widow in the case of officers and to the nominated heir in the case of PBOR until death or disqualification.’

7. Even, if the consequence(s) of the above un-controverted fact, but is that, qua on the demise of the soldier concerned, thus an indefeasible right became conferred upon his surviving family members, to, in terms of the policy (supra), thus seek endowment of the benefits thereof. However, only on account of their being a delay in the makings of the apposite espousals by the surviving widow of the deceased soldier, who irrefutably died while serving the nation, that there has been denial to her vis-a-vis the benefits envisaged vide policy

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dated 31.01.2001, wherein, becomes contemplated the concept of *Liberalized Family Pension*. Since the said policy conferred the supra indefeasible right, whereupon, the said conferred indefeasible right vis-a-vis the widow of the deceased soldier, but was also a recurring and continuous cause of action, irrespective of delay, if any, to activate the said recurring cause of action. Consequently, the further effect thereof, is that, even if there is some delay on the part of the widow of the deceased soldier to make the instant espousal, yet the said delay was not required to be incapacitating the present petitioner to become a valid recipient of a recurring and continuous right, as otherwise became conferred upon her through policy (supra).

Final Order of this Court.

8. In aftermath, this Court finds merit in the writ petition, and, with the above observations aforesaid, the same is allowed.

9. The impugned order, as passed by the learned Armed Forces Tribunal concerned, is modified to the extent that the relevant part of the impugned order, whereby, the arrears are restricted to three years prior to the date of filing of the O.A., is quashed and set aside and the petitioner in terms of the policy/letter (supra), which came into force/issued on 31.01.2001, is entitled to the *Liberalized Family Pension* from the said date i.e. w.e.f. 31.01.2001.

10. The respondents are directed to calculate and release the arrears of the *Liberalized Family Pension* thereof, to the petitioner

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alongwith interest @ 8 % per annum within a period of two months from the date of receipt of copy of this order.

11. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

29.11.2024
kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No